

IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT :

THE HONOURABLE MR. JUSTICE T.R.RAMACHANDRAN NAIR

WEDNESDAY, THE 21ST MARCH 2007 / 30TH PHALGUNA 1928

WP(C).No. 31184 of 2006(K)

PETITIONER:

**K. MURALEEDHARAN, AGED 54 YEARS,
S/O. LATE N.P. KUTTY, ASSISTANT DIRECTOR (PLANNING)
OFFICE OF THE DIRECTOR OF PUBLIC INSTRUCTION,
THIRUVANANTHAPURAM, NOW RESIDING AT PULIMOOTIL
HOUSE, MEZHUVELI VILLAGE, MEZHUVELI P.O., MUZHUVELI
PANCHAYAT, PIN-689507, PATHANAMTHITTA DISTRICT.**

BY ADV. SRI.C.S.MANU

RESPONDENT:

**STATE OF KERALA,
REPRESENTED BY THE SECRETARY TO GOVERNMENT OF
KERALA, DEPARTMENT OF GENERAL EDUCATION,
GOVERNMENT SECRETARIAT, THIRUVANANTHAPURAM.**

BY GOVERNMENT PLEADER SRI. P.A. SALIM

**THIS WRIT PETITION (CIVIL) HAVING BEEN FINALLY HEARD
ON 21/03/2007, THE COURT ON THE SAME DAY DELIVERED THE
FOLLOWING:**

APPENDIX

PETITIONER'S EXHIBITS:

- EXT.P1: COPY OF ORDER BEARING G.O.(RT) NO.385/05/G.EDN. DTD. 28/01/2005 ISSUED BY THE RESPONDENT TO THE PETITIONER.
- EXT.P2; COPY OF MEMO OF CHARGES BEARING NO.6220/C3/05/G.EDN. DTD. NIL ISSUED BY THE RESPONDENT TO THE PETITIONER.
- EXT.P2(A): COPY OF STATEMENT OF ALLEGATIONS SUBMITTED BY THE RESPONDENT TO THE PETITIONER ALONG WITH EXT.P2.
- EXT.P3: COPY OF STATEMENT OF DEFENCE DTD. 13/05/2005 SUBMITTED BY THE PETITIONER TO THE RESPONDENT.
- EXT.P4: COPY OF CIRCULAR BEARING NO.P3-2483/2004/SSA/IEDC DTD. 2/07/2004 ISSUED BY THE STATE PROJECT DIRECTOR, SSA, THIRUVANANTHAPURAM.
- EXT.P5; COPY OF NOTICE DATED 29/09/2004 FOR CONDUCTING THE MEDICAL CAMP AT KOTHAMANGALAM ISSUED BY THE BLOCK PROGRAM OFFICER, SSA, KOTHAMANGALAM.
- EXT.P6: COPY OF MINUTES DTD. 2/12/2004 OF THE DISTRICT PURCHASING COMMITTEE OF THE SSA, ERNAKULAM.
- EXT.P7: COPY OF CIRCULAR NO.P3-3273/2004/SSA DTD. 10/09/2004 ISSUED BY THE STATE PROJECT DIRECTOR, THIRUVANANTHAPURAM.
- EXT.P8: COPY OF REPORT BEARING NO.P3-851/2005/SSA/IEDC DATED 4/05/2006 SUBMITTED BY THE STATE PROJECT DIRECTOR TO THE RESPONDENT.
- EXT.P9: COPY OF ORDER BEARING NO.G.O.(RT) NO.4326/06/G.EDN. DTD. 5/10/2006 ISSUED BY THE RESPONDENT TO THE PETITIONER.

/TRUE COPY/

KSS

T.R. Ramachandran Nair, J.

W.P.(C).NO.31184 of 2006-K

Dated this the 21st day of March, 2007

JUDGMENT

The petitioner is now working as Asst. Director (Planning) in the Office of the Director of Public Instruction, Thiruvananthapuram. While he was working as District Educational Officer, he was deputed to work as District Project Officer, Sarva Siksha Abhiyan, Ernakulam on deputation. While so, he was suspended from service as per Ext.P1 order, pending enquiry into certain allegations. Ext.P2 is the memo of charges and Ext.P2 (a) is the statement of allegations. Petitioner duly submitted a reply to the above, as per Ext.P3. Thereafter, by Ext.P8 a report was submitted by the State Project Director, SSA, Kerala to the Government regarding the allegations raised against the petitioner. This was also based on a direction by the Government. The petitioner was then issued with Ext.P9 proceedings in finalisation of the disciplinary proceedings initiated. In Ext.P9 the Government found that the petitioner deserves punishment for the procedural irregularity on his part in flouting prescribed purchase procedures as per the Store Purchase Rules. Accordingly, he was awarded a penalty of withholding promotion for a period of two years or till retirement

whichever is earlier. He was ordered to be reinstated in service by the same order. The petitioner challenges Ext.P9 in this writ petition.

2. Counsel for the petitioner pointed out that the report Ext.P8 will show that he has been exonerated of all charges and that even the report of Expert Committee will show that the products supplied by M/s. Shaloam Polio Home were of superior quality, durability, etc. and that the price claimed by them is reasonably high due to high quality, durability and manufacturing perfection, etc. Counsel for the petitioner also points out that there are findings which are in favour of the petitioner in Ext.P8 which will show that he was innocent in the entire episode.

3. Under Rule 35 of the Kerala Civil Services (Classification, Control & Appeal) Rules, the petitioner has got an effective remedy to approach the Government itself for review of the order Ext.P9. Since the petitioner has got such a remedy, I think in the light of the contentions raised by the petitioner, he can be relegated to avail the said remedy. Counsel for the petitioner submits that the petitioner is due to retire from service on 31.5.2007, and hence unless there is a direction to dispose of the review petition which is to be filed by him within a time frame, his party will put to real hardship. Therefore, this writ petition is disposed of in the following manner:

a) If a review petition is filed by the petitioner within 10 days from today, the same will be considered on merits and orders will be passed by the respondent within a period of six weeks from today or at any rate, before 30.4.2007, after affording an opportunity for hearing to the petitioner also.

b) Since the writ petition has been pending here, the delay in filing the review petition will be condoned and the review petition will be accepted and orders will be passed on merits.

c) The petitioner is free to urge all contentions raised in the writ petition including the findings rendered in Ext.P8.

The writ petition is accordingly disposed of. No costs.

(T.R. Ramachandran Nair, Judge.)

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